

State of Missouri  
Office of Secretary of State

Case No. AP-11-33

IN THE MATTER OF:

RICHARD JOSEPH GUMERMAN  
dba GUMERMAN TRADING CO.;

Respondent.

Serve: Richard Joseph Gumerman at:  
660 North Spring Street  
Independence, Missouri 64050

Serve: Gumerman Trading Co. at:  
PO Box 4140  
Independence, Missouri 64051

**FINAL ORDER TO CEASE AND DESIST AND ORDER  
IMPOSING CIVIL PENALTIES AND AWARDED  
RESTITUTION AND COSTS**

On May 29, 2012, the Enforcement Section of the Securities Division of the Office of Secretary of State ("Enforcement Section"), by and through Assistant Commissioner, Mary S. Hosmer, submitted a Petition for Final Order to Cease and Desist and Payment of Restitution, Civil Penalties, and Costs (the "Petition"). After reviewing the Petition, the Commissioner issues the following findings of facts, conclusion of law and order:

**PROCEDURAL BACKGROUND**

1. On December 27, 2011, Mary S. Hosmer, Assistant Commissioner for the Securities Division and on behalf of the Enforcement Section, submitted a Petition for Order to Cease and Desist and Order to Show Cause Why Restitution, Civil Penalties, and Costs Should Not Be Imposed (the "C&D Petition") in the above-styled matter.
2. On December 29, 2011, the Commissioner issued an Order to Cease and Desist and Order to Show Cause Why Restitution, Civil Penalties, and Costs Should Not Be Imposed against Respondents (the "C&D Order").
3. On January 5, 2012, Respondent Richard J. Gumerman ("Gumerman") filed a Request For Hearing in this matter.
4. On January 12, 2012, Respondent Gumerman withdrew his request for hearing on the

C&D Order and requested a hearing regarding fines, costs, and restitution to be accessed in the final order.

5. On April 5, 2012, the parties appeared for a hearing on the possible civil penalties, costs, and restitution to be ordered in this matter. At the hearing, the Petitioner and Respondent Gumerman stated that they were working on a stipulation as to the restitution amount owed by Respondent Gumerman.
6. At the April 5 hearing, the Petitioner also stated that the Enforcement Section might be willing to request that the imposition of any civil penalties and costs be suspended should the parties stipulate to a restitution amount. The matter was continued pending submission of the parties' stipulation as to the restitution amount.
7. On April 20, 2012, Petitioner and Respondent Gumerman submitted a Stipulation as to Restitution (the "Stipulation") to the Commissioner. In the Stipulation, the parties agreed that the total restitution and interest owed in this matter was eight hundred forty-one thousand fifty-five dollars and eighty-eight cents (\$841,055.88).
8. A final order is necessary or appropriate and in the public interest for, among other things, the following reasons:
  - a. Respondent Gumerman failed to disclose to investors that the securities offered and/or sold were not registered in the State of Missouri;
  - b. Respondent Gumerman was not registered to offer and sell securities in the State of Missouri;
  - c. Respondent Gumerman did not disclose information about his background and experience in trading commodities futures to investors;
  - d. Respondent Gumerman did not provide investors with financial information to support his guarantee that investors would not lose their original investment amount;
  - e. Respondent Gumerman did not tell investors the risks of the investment;
  - f. Respondent Gumerman did not tell investors that the GTC Trading Fund account statements did not reflect the actual profits in the GTC Trading Fund;
  - g. Respondent Gumerman did not tell investors that he held some of the profits from the GTC Trading Fund in a "slush fund;" and Respondent Gumerman failed to tell investors that investor money in the GTC Trading Fund would be used for Respondent Gumerman's personal expenses.
9. In the Petition, the Enforcement Section requested a final order to cease and desist.
10. In the Petition, the Enforcement Section requested that the Commissioner issue an order requiring Respondent Gumerman to pay restitution and interest in the total amount of eight hundred forty-one thousand fifty-five dollars and eighty-eight cents (\$841,055.88).
11. In the Petition, the Enforcement Section requested that the Commissioner issue an

order imposing a civil penalty in the amount of ten thousand dollars (\$10,000) against Respondent Gumerman for multiple violations of Section 409.3-301, RSMo. (Cum. Supp. 2011), and requested that same amount be "suspended" provided that the prayed for restitution amounts are made and that Respondent Gumerman does not violate the Missouri Securities Act of 2003 for three (3) years.

12. In the Petition, the Enforcement Section requested that the Commissioner issue an order imposing a civil penalty in the amount of ten thousand dollars (\$10,000) against Respondent Gumerman for multiple violations of Section 409.4-402, RSMo. (Cum. Supp. 2011), and requested that same amount be "suspended" provided that the prayed for restitution amounts are made and that Respondent Gumerman does not violate the Missouri Securities Act of 2003 for three (3) years.
13. In the Petition, the Enforcement Section requested that the Commissioner issue an order imposing a civil penalty in the amount of ten thousand dollars (\$10,000) against Respondent Gumerman for multiple violations of Section 409.5-501, RSMo. (Cum. Supp. 2011), and requested that same amount be "suspended" provided that the prayed for restitution amounts are made and that Respondent Gumerman does not violate the Missouri Securities Act of 2003 for three (3) years.
14. In the Petition, the Enforcement Section requested that the Commissioner issue an order requiring Respondent Gumerman to pay the costs of the investigation in this matter in the amount of five thousand nine hundred ninety-seven dollars (\$5,997), and requested that same amount be "suspended" provided that the prayed for restitution amounts are made and that Respondent Gumerman does not violate the Missouri Securities Act of 2003 for three (3) years.

### **FINDINGS OF FACT**

15. The Commissioner adopts and incorporates the Findings of Fact, paragraphs 1 - 13, in the C&D Order.

### **CONCLUSION OF LAW**

16. The Commissioner adopts and incorporates the Conclusions of Law, paragraphs 25 - 39, in the C&D Order.
17. This Order is in the public interest and consistent with the purposes intended by the Missouri Securities Act of 2003.

### **ORDER**

**NOW, THEREFORE**, it is hereby **ORDERED** that:

- A. The Cease and Desist entered in Case Number AP-11-33 on December 29, 2011, is FINAL.
- B. Pursuant to Section 409.6-604(d), RSMo. (Cum. Supp. 2011), Respondent Gumerman shall pay restitution in the amount of seven hundred twenty two thousand five hundred seventy seven dollars and ninety nine cents (\$722,577.99), and interest calculated at the rate of eight percent (8%) per year from the date of the violation causing the loss, totaling one hundred eighteen thousand four hundred seventy seven

dollars and eighty nine cents (\$118,477.89), arising from violations of Sections 409.3-301, 409.4-402, and 409.5-501, RSMo. (Cum. Supp. 2011). These amounts, which total eight hundred forty one thousand fifty five dollars and eighty eight cents (\$841,055.88), shall be made payable to the Missouri Secretary of State's Investor Restitution Fund and the Commissioner will take reasonable and necessary actions to distribute such funds to those persons referenced in Exhibit A of the Petition and injured by the acts and violations. These amounts shall be paid by Respondent Gumerman within thirty (30) days of the date of this Order. Respondent Gumerman shall deliver this payment to the Securities Division at 600 West Main Street, P.O. Box 1276, Jefferson City, Missouri 65102.

- C. Pursuant to Section 409.6-604(d), RSMo. (Cum. Supp. 2011), Respondent Gumerman shall pay a civil penalty in the amount of five thousand dollars (\$5,000) for multiple violations of Section 409.3-301, RSMo. (Cum. Supp. 2011). This amount shall be suspended provided that Respondent Gumerman complies with the terms of this Order and does not violate the Missouri Securities Act of 2003 for a period of three (3) years.
- D. Pursuant to Section 409.6-604(d), RSMo. (Cum. Supp. 2011), Respondent Gumerman shall pay a civil penalty in the amount of one thousand dollars (\$1,000) for multiple violations of Section 409.4-402, RSMo. (Cum. Supp. 2011). This amount shall be suspended provided that Respondent Gumerman complies with the terms of this Order and does not violate the Missouri Securities Act of 2003 for a period of three (3) years.
- E. Pursuant to Section 409.6-604(d), RSMo. (Cum. Supp. 2011), Respondent Gumerman shall pay a civil penalty in the amount of ten thousand dollars (\$10,000) for multiple violations of Section 409.5-501, RSMo. (Cum. Supp. 2011). This amount shall be suspended provided that Respondent Gumerman complies with the terms of this Order and does not violate the Missouri Securities Act of 2003 for a period of three (3) years.
- F. Pursuant to Section 409.6-604(e), RSMo. (Cum. Supp. 2011), Respondent Gumerman shall pay the additional sum of five thousand nine hundred ninety seven dollars (\$5,997) as reimbursement for the costs of the investigation and administration in this matter. This amount shall be suspended provided that Respondent Gumerman complies with the terms of this Order and does not violate the Missouri Securities Act of 2003 for a period of three (3) years.
- G. The suspended payments in paragraphs C through F, immediately above, shall, for three (3) years from the execution of this document, become immediately payable, under operation of law, upon Respondent's failure to comply with the terms of this Order, and such immediately due payments shall be in addition to all other penalties then available under the law. The Commissioner will refer this matter for enforcement as provided in Sections 409.6-603 and 409.6-604, RSMo. (Cum. Supp. 2011). Upon Respondent Gumerman's satisfaction of the order in paragraph B, above, and his compliance with the terms of this Order for a period of three (3) years, the suspended payments in paragraphs C through F, above, shall be fully waived.
- H. Respondent Gumerman shall pay his own costs and attorney's fees in this matter.

**SO ORDERED:**

WITNESS MY HAND AND OFFICIAL SEAL OF MY OFFICE AT JEFFERSON CITY,  
MISSOURI THIS 6<sup>TH</sup> DAY OF JUNE, 2012.

ROBIN CARNAHAN  
SECRETARY OF STATE

(Signed/Sealed)  
MATTHEW D. KITZI  
COMMISSIONER OF SECURITIES

CERTIFICATE OF SERVICE

I hereby certify that on this 6<sup>th</sup> day of June, 2012, a copy of the foregoing Order to Cease and Desist and Order to Show Cause Why Restitution, Civil Penalties, and Costs Should Not Be Imposed in the above styled case was **mailed by Certified U.S. mail to:**

Richard J. Gumerman  
PO Box 4140  
Independence, Missouri 64051

Gumerman Trading Co.  
PO Box 4140  
Independence, Missouri 64051

**And via hand-delivery to:**

Mary S. Hosmer  
Assistant Commissioner  
Missouri Securities Division

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John Hale, Specialist